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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

LIVE VENTURES INCORPORATED;
JANONE INC. (f/k/a Appliance Recycling
Centers of America, Inc.); JOHN ISAAC
a/k/a JON ISAAC; KINGSTON
DIVERSIFIED HOLDINGS LLC; and
VIRLAND A. JOHNSON,

Defendants.

Case No. 2:21-cv-01433-JCM-MDC

**AMENDED STIPULATION AND
PROPOSED ORDER TO CONTINUE
DISCOVERY**

(Sixth Request)

Pursuant to Local Rule 26-3 and LR IA 6-1, Plaintiff Securities and Exchange Commission ("SEC"), Defendants Live Ventures Incorporated and Jon Isaac a/k/a Jon Isaac (collectively, the "Live Defendants"), Virland Johnson ("Mr. Johnson" and, together with the SEC, and Live Defendants, the "Parties"), by and through their respective undersigned counsel of record, hereby file this *Amended Stipulation and Proposed Order to Continue Discovery (Sixth Request)* (this "Stipulation") and stipulate, agree, and request that the Court enter an order adjusting and continuing certain discovery deadlines set forth in the Court's *Order*, dated March

1 21, 2024 (the “Order”) (ECF 133), so that expert depositions may be continued in light of certain
2 unexpected circumstances of one of the SEC’s experts.

3 As contemplated by LR 26-3, good cause exists to adjust the deadlines for this matter
4 because unexpected circumstances, including an unexpected family medical event for one of
5 the experts, prevent the Live Defendants and Mr. Johnson from completing expert discovery
6 within the current case deadlines. This is the Parties’ sixth request for an extension of the
7 discovery deadlines set forth in the Court’s initial *Scheduling Order* (ECF 85).

8 **A. STATEMENT SPECIFYING THE DISCOVERY COMPLETED (LR 26-3(a))**

9 The parties participated in an initial Rule 26(f) Conference in September 2022.

10 On October 24, 2022, the SEC served its Initial Rule 26(a) Disclosures. The SEC
11 subsequently produced the documents identified in its initial disclosures.

12 On October 28, 2022, the Live Defendants served their Initial Disclosures pursuant to
13 Federal Rule of Civil Procedure 26(a)(1).

14 On October 28, 2022, the JanOne Defendants served their Initial Disclosures pursuant
15 to Federal Rule of Civil Procedure 26(a).

16 On October 2, 2023, Defendant Kingston served its Initial Disclosures pursuant to
17 Federal Rule of Civil Procedure 26(a).

18 On May 20, 2024, fact discovery closed.

19 On June 17, 2024, the SEC and the Live Defendants exchanged expert disclosures and
20 reports.

21 On July 15, 2024, the SEC and the Live Defendants exchanged rebuttal expert reports.

22 **B. DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED**
23 **(LR 26-3(b))**

24 The Parties intend to take the depositions of the opposing parties’ respective expert
25 witnesses.

C. REASON WHY REMAINING DISCOVERY CANNOT BE COMPLETED WITHIN THE TIME LIMITS SET BY THE DISCOVERY PLAN (LR 26-3(c))

The Parties have been diligently participating in the discovery process, including expert discovery, and have exchanged both initial and rebuttal expert reports. Following submission of expert reports on June 17, 2024, and rebuttal reports on July 15, 2024, the parties negotiated deposition dates and locations for the two SEC expert witnesses and Live's expert witness. In particular, the depositions of SEC expert witnesses Eugene Canjels and John Drum were set for August 22 and 23, 2024, in Denver, Colorado, and the deposition of Live expert witness Todd McKinnon was set for August 26, 2024, in Salt Lake City, Utah. The SEC has contemplated that in addition to his own deposition, Mr. Drum, the SEC's accounting expert, would attend the deposition of Live's accounting expert, Todd McKinnon.

However, on August 8, 2024, the SEC notified Live's counsel that its expert witness John Drum had twins born very prematurely, who have remained hospitalized, and that Mr. Drum was no longer available for his noticed deposition. The parties then met and conferred about an extension of the expert discovery cut-off and the Court's other outstanding deadlines, and ultimately determined that a 30-day extension was necessary to accommodate Mr. Drum's schedule.

D. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY (LR 26-3(d))

(a) Expert Discovery Deadline: The deadline for the Parties to complete all expert discovery, including the depositions of any experts, shall be extended from August 26, 2024, to **September 25, 2024**.

(b) Dispositive Motion Deadline: The deadline for the Parties to file their dispositive motions shall be extended from September 30, 2024, to **October 30, 2024**.

(c) Joint Pretrial Order: The deadline for the parties to file their joint pretrial order shall be extended from October 14, 2024, to **November 13, 2024**. Pursuant to LR 26-1(b)(5), in the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be

1 suspended until thirty (30) days after the entry of a decision on the dispositive motion(s), or
2 upon further order of the Court.

3 Based on the foregoing Stipulation and good cause appearing, the Parties respectfully
4 request that the Court enter an order adopting the Parties' amended proposed schedule for
5 completing all remaining discovery.

6 **IT IS SO STIPULATED.**

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9 Dated this 26th day of August 2024.

10 **SECURITIES AND EXCHANGE
COMMISSION**

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Dated this 26th day of August 2024.

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Dated this 26th day of August 2024.

/s/ Brent Baker

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IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE
DATED: 8/27/24
